

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
SW/C Avery Hill Drive & Beecham * ZONING COMMISSIONER
Court, 45/3 Avery Hill Rd, 330 *
E. of Garrison Forest Road *
#2 Beecham Court *
4th Election District *
3rd Councilmanic District *
Prospect Farm Ltd. Partnership *
Petitioner *
Case No. 89-550-A

FINDINGS FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Sections 400(101), 400.1 and 400.3 to permit an accessory structure (tennis court) in the side yard in lieu of the required rear yard and an accessory building (barn) larger than the principal building (house) and 36 feet in height in lieu of the maximum 15 feet, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, by Lawrence Macks, attorney and Vice President of Prospect Farm Ltd. Partnership, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as No. 2 Beecham Court (formerly 12200 Garrison Forest Road), consists of 6.96 acres +/-, is split zoned B.R.1 and R.C.5, and is improved with an existing two story framed house, attached guest house, detached garage, barn and tennis court.

Mr. Macks testified that the existing tennis court was placed on the west side of the dwelling to avoid the necessity of razing the existing structures referenced on Petitioner's Exhibit 1. He stated that in consideration of the layout of the subject site, the tennis court was constructed in the most logical location. Mr. Macks also testified that the existing barn is a remnant of the former farm which operated on this site, and that it would have to be razed absent the requested variances. He stated

that the property to the south of the subject site is to be residentially developed with single family dwellings situated on 1/2 acre lots, the rear yards of which will meet the southerly border of the subject property.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

-2-

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of July, 1989 that the request for a variance from Sections 400(101), 400.1 and 400.3 to permit an accessory structure (tennis court) in the side yard in lieu of the required rear yard and an accessory building (barn) larger than the principal building (house) and 36 feet in height in lieu of the maximum 15 feet, as more particularly described on Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

1. The Petitioner may apply for their building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH/mm

cc: Peoples Counsel

ORDER RECEIVED FOR FILING
Date 7/25/89
By [Signature]

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

July 21, 1989



Dennis F. Rasmussen
County Executive

Mr. Lawrence Macks, Vice President
Prospect Farm Ltd. Partnership
6615 Reisterstown Road
Baltimore, Maryland 21215

RE: Petition for Zoning Variance
Case No. 89-550-A

Dear Mr. Macks:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:mm

cc: Peoples Counsel

ORDER RECEIVED FOR FILING
Date 7/25/89
By [Signature]

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400(101), 400.1 and 400.3 to permit an accessory structure (tennis court) in the side yard in lieu of the required rear yard and an accessory building (barn) larger than the principal building (house) and 36 feet in height in lieu of the maximum 15 feet, as more particularly described on Petitioner's Exhibit 1. The Petitioner requests the Zoning Commission to grant the following reasons: (indicate hardship or practical difficulty)

All improvements are existing and located on a parcel of land now subdivided into 332 lots. In order to somewhat preserve the rural aspect of the area, we propose to leave the improvements in their current state.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Legal Owner(s):
(Type or Print Name) Prospect Farm Limited Partnership
Signature [Signature] (Type or Print Name)
Address Lawrence Macks, Vice President
(Type or Print Name)
City and State
Attorney for Petitioner: 6615 Reisterstown Road, 358-4934
(Type or Print Name) Address Phone No.
Signature Baltimore, Maryland, 21215
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
W. Duvall & Associates, Inc. (David Cox)
City and State
Name
530 East Joppa Road
Towson, Maryland, 21204 582-9571
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 2nd day of July, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 12th day of July, 1989, at 11 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

(over)

W. DUVALL & ASSOCIATES, INC.

Engineers • Surveyors • Land Planners

April, 18, 1989

ZONING DESCRIPTION

BEGINNING at a point in the western side of the intersection of proposed Beecham Court, 50 feet wide, and proposed Avery Hill Drive, 50 feet wide, a distance of 325 feet plus or minus west of Garrison Forest Road. Thence running along proposed Beecham Court, the following two courses and distances:

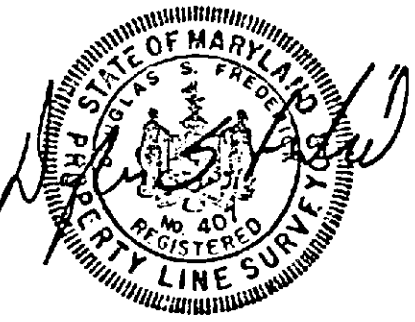
- 1) South 20 degrees 45 minutes 21 seconds West 152.98 feet;
- 2) Along a curve to the left having a radius of 775.00 feet and an arc length of 11.78 feet; thence leaving said Beecham Court and running the following courses and distances:

- 1) North 73 degrees 06 minutes 41 seconds West 106.40 feet;
- 2) South 57 degrees 34 minutes 23 seconds West 121.25 feet;
- 3) North 88 degrees 22 minutes 49 seconds West 134.57 feet;
- 4) North 73 degrees 28 minutes 04 seconds West 274.00 feet;
- 5) North 53 degrees 22 minutes 04 seconds East 190.04 feet;
- 6) North 17 degrees 10 minutes 33 seconds East 47.45 feet;
- 7) North 02 degrees 10 minutes 43 seconds West 140.09 feet;
- 8) South 90 degrees 00 minutes 00 seconds West 210.00 feet;
- 9) North 17 degrees 49 minutes 52 seconds West 49.79 feet; thence running along the south side of proposed Avery Hill Road the following courses and distances:

- 1) North 72 degrees 10 minutes 08 seconds East 122.53 feet;
- 2) Along a curve to the right having a radius of 772.78 feet and an arc length of 741.79 feet;
- 3) South 52 degrees 50 minutes 00 seconds East 156.95 feet;
- 4) Along a curve to the left having a radius of 507.40 feet and an arc length of 96.28 feet;
- 5) South 21 degrees 34 minutes 47 seconds East 14.85 feet to the point of beginning.

Containing 6.9615 acres of land more or less.

Being known as 12200 Garrison Forest Road in the 4th Election District of Baltimore County, Maryland. Also being known as proposed lot No. 165 Worthington Park Section Three, #2 Beecham Court.



530 East Joppa Road / Towson, Maryland 21204 / (301) 583-9571

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland, on July 12, 1989 at 11:00 A.M.

Petition for Zoning Variance Case Number: 89-550-A SW/C Avery Hill Drive and Beecham Court (50.5 Avery Hill Road, 330 E. of Garrison Forest Road) to #2 Beecham Court (formerly 12200 Garrison Forest Road) 4th Election District 3rd Councilmanic District

Permitted: Farm (F) Use. Petitioner: Prospect Farm Ltd. Partnership. Hearing Schedule: Wednesday, July 12, 1989 at 11:00 A.M.

Variance: To permit an accessory structure (tennis court) in the side yard in lieu of the required rear yard and an accessory building (barn) larger than the principal building (house) and 36 feet in height in lieu of the maximum 15 feet.

NOTICE TO THE PUBLIC TO BE POSTED ON THE PROPERTY AND ADVERTISED IN TWO NEWSPAPERS OF GENERAL CIRCULATION THROUGHOUT BALTIMORE COUNTY.

6236 June 15, 1989

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 15, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 15, 1989.

THE JEFFERSONIAN,

Publisher

4531

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY 89-550-A
Towson, Maryland

District 4th Date of Posting 6-21-89
Posted for: [Signature]
Petitioner: Prospect Farm Limited Partnership
Location of property: SW/C Avery Hill Drive and Beecham Court (50.5 Avery Hill Road, 330 E. of Garrison Forest Road) to #2 Beecham Court (formerly 12200 Garrison Forest Road) 4th Election District 3rd Councilmanic District
Location of Signs: Corners of #2 Beecham Ct. & Avery Hill Rd. & 12 E. of Garrison Forest Road
Remarks: [Signature]
Posted by: [Signature] Date of return: 6-23-89
Number of Signs: 4

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

Prospect Farm Limited Partnership
5615 Reisterstown Road
Baltimore, Maryland 21215

ATTN: LAWRENCE MACKS

Re: Petition for Zoning Variance
CASE NUMBER: 89-550-A
SUC Avery Hill Drive and Beecham Court
(5/5 Avery Hill Road, 330' E of Garrison Forest Road)
#2 Beecham Court (formerly 12200 Garrison Forest Road)
4th Election District - 3rd Councilmanic
Petitioner(s): Prospect Farm Limited Partnership
HEARING SCHEDULED: WEDNESDAY, JULY 12, 1989 at 11:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 81.91 is due for advertising and posting of the above referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the time it is posted by this office until the day of the hearing.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 007014

DATE 7/10/89 ACCOUNT R-01-015-000

AMOUNT \$ 81.91

RECEIVED FROM Hunt Country and Ventura

FOR PPA 2 7/12/89 Hing 89-550-A

VALIDATION OR SIGNATURE OF CASHIER
DATE: 7/10/89

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

June 1, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 89-550-A
SUC Avery Hill Drive and Beecham Court
(5/5 Avery Hill Road, 330' E of Garrison Forest Road)
#2 Beecham Court (formerly 12200 Garrison Forest Road)
4th Election District - 3rd Councilmanic
Petitioner(s): Prospect Farm Limited Partnership
HEARING SCHEDULED: WEDNESDAY, JULY 12, 1989 at 11:00 a.m.

Variance: To permit an accessory structure (tennis court) in the side yard in lieu of the required rear yard and an accessory building (barn) larger than the principal building (house) and 36 ft. in height in lieu of the maximum 15 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES

Zoning Commissioner of
Baltimore County

cc: Prospect Farm Limited Partnership
H. Russell & Associates, Inc.
File

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

June 22, 1989

Mr. Lawrence Macks
Prospect Farm Limited Partnership
6615 Reisterstown Road
Baltimore, MD 21215

RE: Item No. 453, Case No. 89-550-A
Petitioner: Prospect Farm Ltd, et al
Petition for Zoning Variance

Dear Mr. Macks:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINTARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: W. Duvall & Associates, Inc.
530 East Joppa Road
Towson, MD 21204

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

June 6, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers 449, 450, 451, 452, 453, 455, 456, 457, 458, and 459.

Very truly yours,

Michael S. Flanagan
Traffic Engineer Assoc. II

NSF/lvw

89-550-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
2nd day of May, 1989.

J. Robert Haines
Zoning Commissioner

Petitioner: Prospect Farm Ltd, et al Received by: J. Robert Haines
Petitioner's Attorney: J. Robert Haines
Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND RESOURCE MANAGEMENT

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 453, Zoning Advisory Committee Meeting of May 3, 1989
Property Owner: Prospect Farm Ltd Partnership
Location: 2 Beecham Court District: 4

Water Supply: metric Sewage Disposal: metric
COMMENTS ARE AS FOLLOWS:

- () Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
- () Prior to new installation(s) of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 887-3775, to obtain requirements for such installation(s) before work begins.
- () A permit to construct from the Bureau of Quality Management is required for such items as spray paint processes, underground gasoline storage tank(s) (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Bureau of Air Quality Management is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- () Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, sauna, ship/pool, hot tubs, water and sewerage facilities or other amusements pertaining to health and safety, two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Water Quality Monitoring Section, Bureau of Regional Community Services, 687-6500 x 315.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.
- () Prior to razing of existing structure(s), petitioner must contact the Division of Waste Management at 887-3745, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 887-3775.
- () Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3745.
- () Soil percolation tests, have been conducted. () The results are valid until () Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.
- () Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test () shall be valid until () is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Management at 887-3980.
- () In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.

Others: When water supply water & sewerage is made available, existing private sewerage disposal system must be properly abandoned and public sewerage water well must be properly abandoned by a licensed well driller.

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

Paul H. Reincke
Chief

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: Prospect Farm Limited Partnership

Location: SWC Avery Hill Drive and Beecham Court (SS Avery Hill Road, 300' E of Garrison Forest Road) (#2 Beecham Court)

Item No.: 453 Zoning Agenda: May 2, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature] 5-1-89 Noted and Approved: [Signature]
Planning Group Fire Prevention Bureau
Special Inspection Division

RECEIVED
MAY 1 1989

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 12, 1989

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for May 2, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for items 449, 450, 452, 455, 456, 457, 458.

For items 451 and 453 the previous County Review Group comments are still valid.

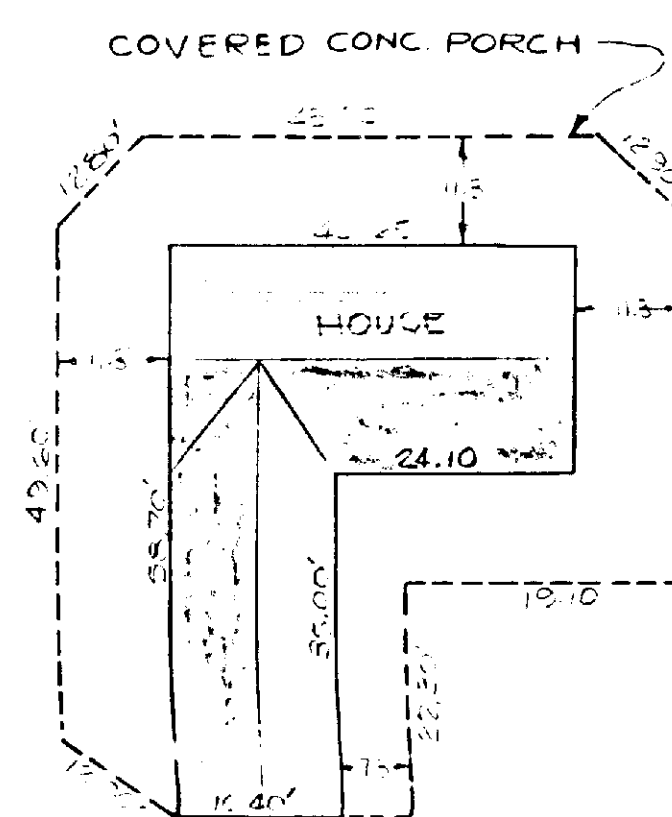
Comments are attached for item 458.

Robert W. Bowling, P.E., Chief
Developers Engineering Division

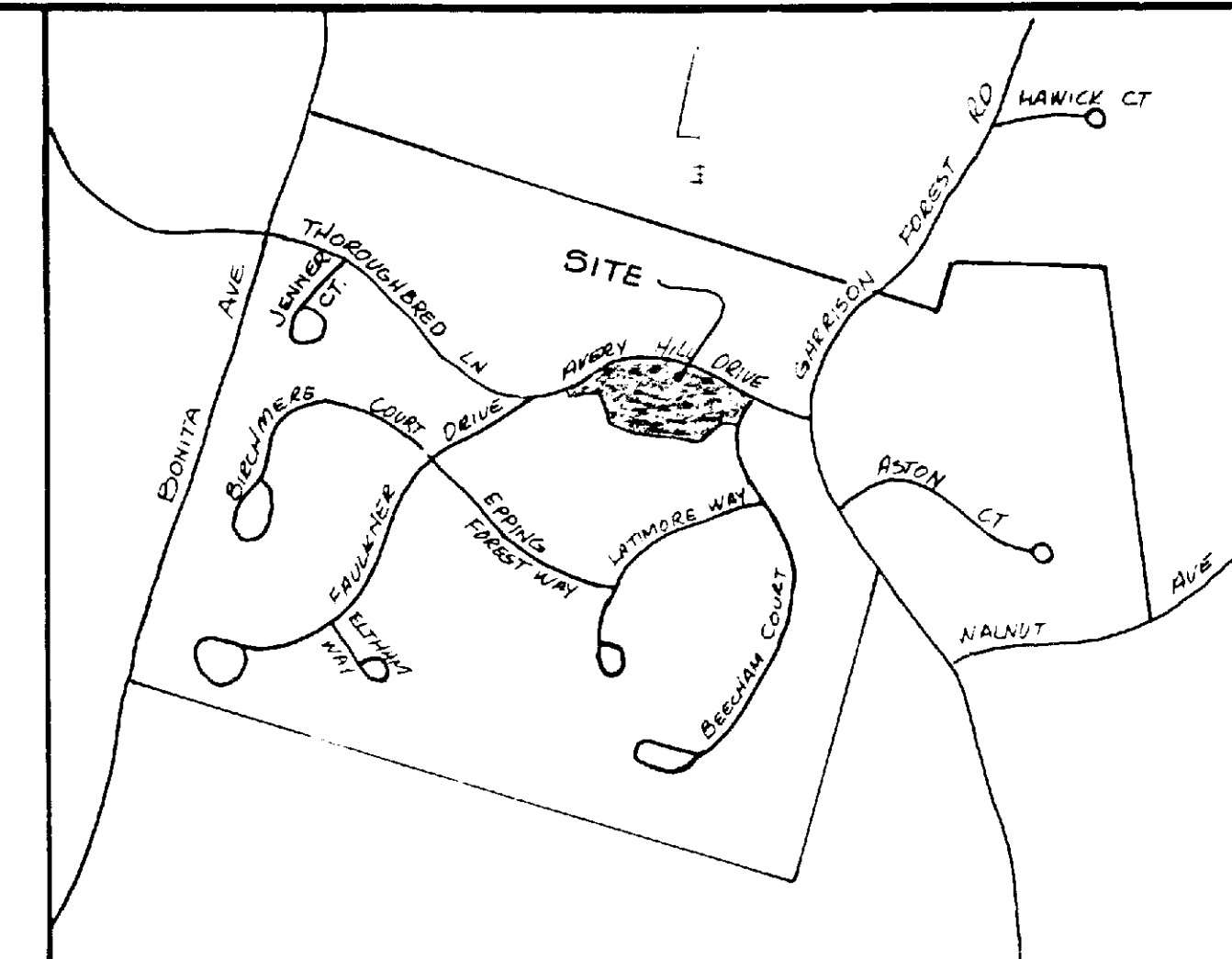
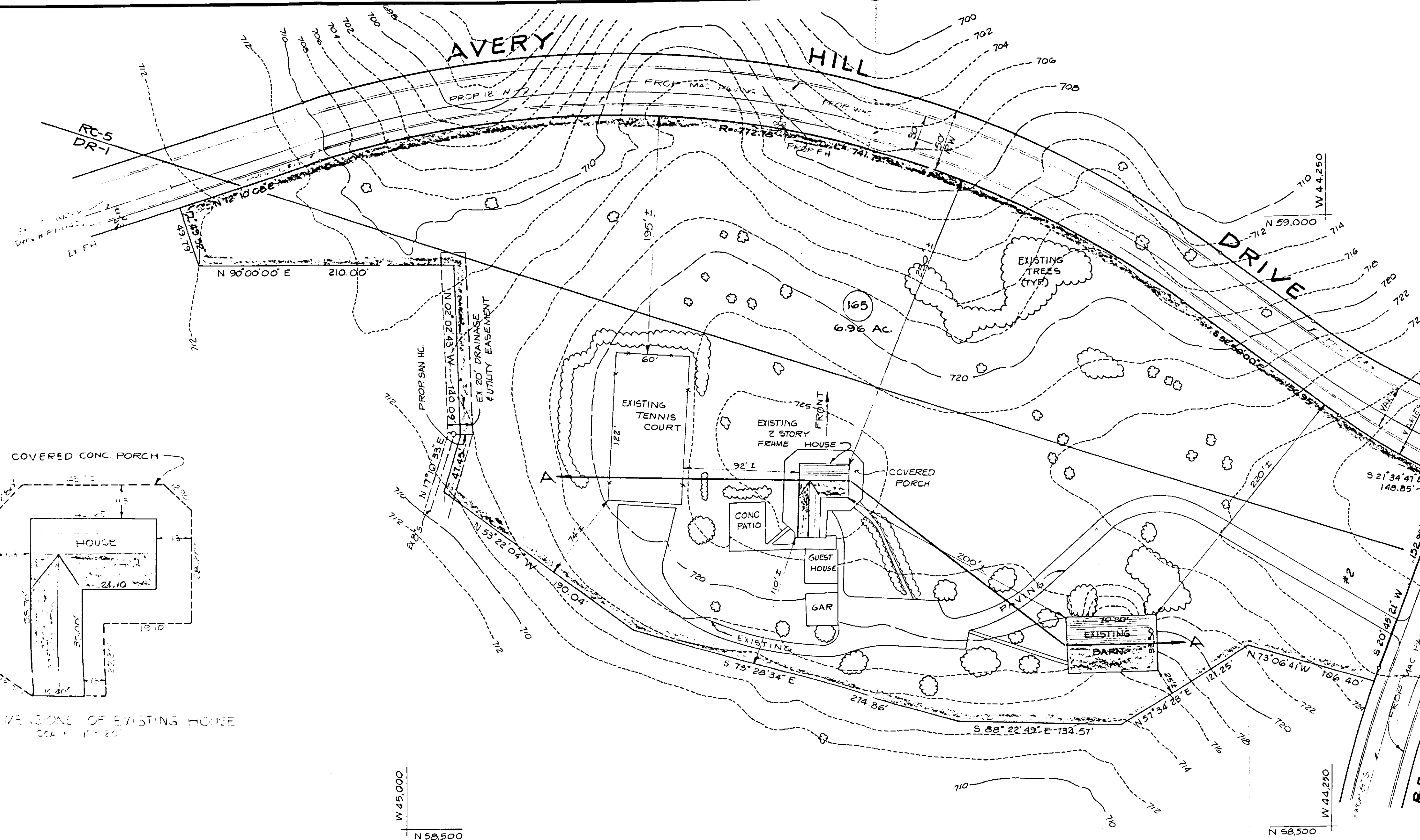
RWB:s

Encl.

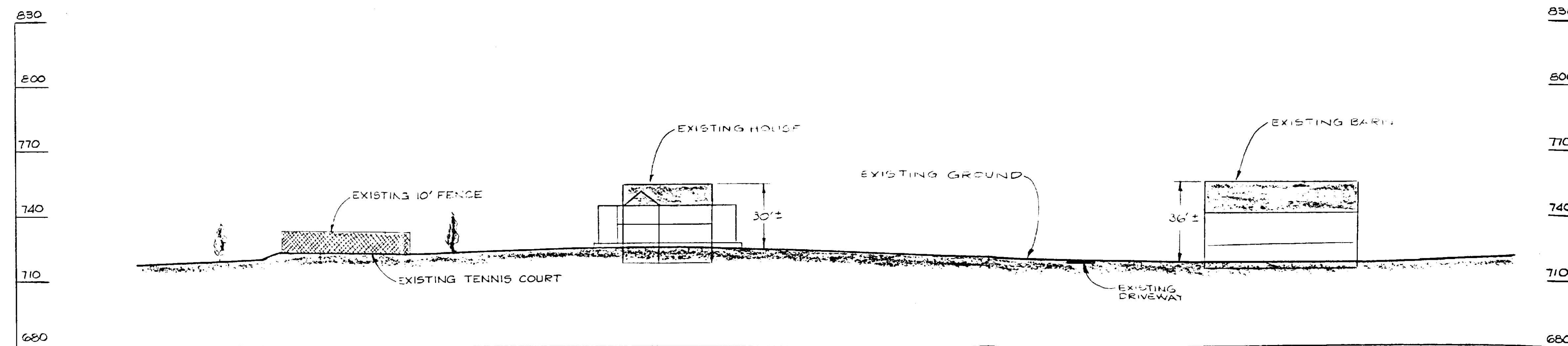
BALTIMORE COUNTY GRID NORTH



DIMENSIONS OF EXISTING HOUSE
SEE PLAN 1"=20'



VICINITY MAP
SCALE: 1"=1000'



SECTION A-A

**PETITIONER'S
EXHIBIT 1**

453

PLAT TO ACCOMPANY
PETITION FOR ZONING VARIANCE
FOR
#12200 GARRISON FOREST ROAD
(PROPOSED LOT #165 WORTHINGTON PARK III)
(PROPOSED #2 BEECHAM COURT)

4TH ELECTION DISTRICT
SCALE: PLAN: 1"=50'
PROFILE: 1"=30'

BALTIMORE CO., MD.
DATE: 4/14/89



W. DUVAL & ASSOCIATES, INC.
ENGINEERS • SURVEYORS • LAND PLANNERS

500 EAST JOFFA ROAD
TOWSON, MARYLAND 21204
(301) 580-5571